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Date of Signature and Deposit: April 11, 2003

Nicholas J. Scay

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Alan D. Attie
Samuel T. Nadler

Date: April 11, 2003

Serial No.: 09/955,367

Group Art Unit: 1634

Filed: 09/18/2001

Examiner: Diana B. Johannsen

Title: EXPRESSION OF GENES IN DIABETES
MELLITUS AND INSULIN RESISTANCE

File No.: 960296.97478

RESPONSE

Commissioner For Patents
Washington, DC 20231

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APR 21 2003

Technology Center 2600

Dear Sir:

In response to an Office Action dated December 17, 2002 in the file of the above-identified application, the applicants respond hereto as follows.

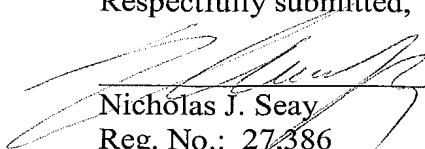
The Office Action contained a requirement for restriction that required the applicants to elect, at least for purposes of examination, a single gene or combination of genes for examination. The applicants respectfully traverse this requirement.

However, in order to be responsive to the requirement imposed by the Examiner, the applicants elect the gene for sterol responsive element binding protein ADD1/SREBP, identified at the bottom of page 10 in the specification and found on Table 1. It is the applicants' belief that Claims 1-3, 5, 8, and 11 read on this species.

Nevertheless, the applicants respectfully again traverse this requirement. What the applicants have discovered here are the genes associated with diabetes. Any reasonable set of these genes characteristic of the on-set of diabetes can be used as a diagnostic test. Note that the applicants have specifically presented claims that recite that least four of the genes from a table are used in a specific test, as for example in Claims 4 and 6. It is believed that the applicants are entitled to claims of this breadth since the gene expression pattern has been

demonstrated to be characteristic of diabetes. It is believed that the Examiner's rejection is unduly narrow and that the applicants should be entitled to receive claims to the genus which has enabled and should not be limited to a specific single species as required by the Examiner. Accordingly it is requested that this requirement for restriction be reconsidered and withdrawn.

Respectfully submitted,



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